

// A special meeting of the Council of the City of Lynchburg, recessed from September 1, was held on the 13th day of September, 2005, at 4:00 P.M., Second Floor Training Room, City Hall, Carl B. Hutcherson, Jr., President, presiding. The purpose of the meeting was to conduct a work session regarding several items. The following Members were present:

Present: Dodson, Foster, Gillette, Helgeson, Seiffert, Hutcherson

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Absent: Johnson

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// Council Member Johnson arrived at 4:25 p.m. during Agenda Item #1.

// Information Technology Director Mike Goetz provided an update regarding the transfer of Adelphia's cable TV franchise to Comcast. Mr. Goetz explained that as a component of Adelphia's overall plan to emerge from bankruptcy, Adelphia requested on June 16, 2005, that its cable TV franchise in Lynchburg be transferred to Comcast. Mr. Goetz went on to say that under federal law, the City has 120 days to act upon this request, and that the City's review is limited to reviewing the qualifications of the transferee in three specific areas: (1) financial, (2) technical, and (3) legal, and that City staff, with the assistance of Municipal Services Associates (a consulting firm), has reviewed the FCC-required documentation filed by Comcast and has found no grounds for concluding that Comcast is not qualified in any of these three areas. Mr. Goetz explained that City Council has three options for responding to the transfer request: (1) vote to accept, (2) vote to reject, or (3) take no action, and if the City does not act upon the transfer request within the 120 day review period, then the City shall be deemed to have consented to the transfer. Mr. Goetz stated that staff is recommending that City Council take no formal action to approve the transfer, and that by letting the 120 day transfer review period expire, it is presumed that the City has no objection to letting the requested transfer proceed. Following discussion, City Council agreed with the recommendation to take no formal action regarding the transfer of Adelphia's cable television franchise to Comcast.

// Traffic Engineer Gerry Harter presented an overview regarding a Neighborhood Traffic Management Program (NTMP) policy, developed by staff in response to a request from City Council to develop a policy to implement traffic calming measures in the City. Mr. Harter explained that traffic management includes traffic calming as well as other strategies to slow speeds and reduce cut-through traffic to make neighborhoods more livable, and that although traffic calming is a major component in traffic management, the program was not called a "traffic calming" program as it was considered to be too narrow. Mr. Harter went on to say that the policy sets guidelines to determine which roads within the City are eligible for traffic management, types of traffic management techniques to be used, a prioritization procedure to rank projects, and an implementation process including citizen, City staff, and City Council input. Mr. Harter also noted that one question that remains is how to fund the program, explaining that some jurisdictions allocate funds on a project by project basis while others allocate money during the budget year by neighborhood or for the entire jurisdiction. Mr. Harter stated that staff feels this is a very equitable and replicable policy that helps maintain the delicate balance of safety, livability and efficiency on suburban neighborhood streets, and that City Council is being asked to approve the Neighborhood Traffic Management Program (NTMP)

policy for the City. Council discussed and reached consensus regarding the following changes to the Plan:

(1) page 4—3.1. Step 1 – change “should” to “must” contact the City’s Public Works Traffic Engineering;

(1) page 4—3.1. Step 1 – change language to include the “opinion” and not the “support” of a

Neighborhood Homeowners Association; and (3) page 7—3.2. Step 2a – include definition of “peak hour.”

Council discussed several other proposed changes and agreed to provide written comments to Traffic Engineer Gerry Harter who, in turn, would incorporate the comments into a redraft Plan to be considered by the Physical Development Committee at its September 27 meeting.

// City Manager Kimball Payne provided an update regarding the Crosstown Connector project, explaining that with the completion of the Midtown Area Plan and to honor commitments made to Centra Health it is time to finalize the scope of the project and move ahead toward construction. Mr. Payne explained that staff recommends that the project be renamed the “Midtown Connector” to reflect a purpose of providing access into and out of the center city rather than providing access across the City. Mr. Payne went on to say that Phase 1 will be broken into at least 3 sub-phases:

Phase 1a: On Kemper/Park, from US 29 to Langhorne; scheduled to be a four-lane facility as planned with underground utilities, sidewalks and other amenities--this is the top priority; Phase 1b: On Park/Lakeside, from Langhorne to Murrell; context sensitive design, roundabout at Murrell, stay mostly 2-lane--this phase will most likely be combined with Phase 1a; Phase 1c: On Langhorne, from Park to Memorial; an improved corridor, either a 2 or 3 lane cross section--this is a new addition and will have to be considered within the context of available funds and the process of project redesignation. It could be a stand-alone project or built in combination with another project such as the Atherholt Road connection to Lakeside Drive. Phase 2 will be broken down as follows: Phase 2a: Improvements to the intersection of Routes 221/501--this, the western terminus of the connector, was previously designated as Phase 3--intersection improvements are necessary to address potential development in the area of the intersection; Phase 2b: Will consist of other improvements in the corridor depending on the traffic analysis and the availability of funding--the area on Lakeside Drive between Wyndale and Forest Brook is considered to be a priority. Mr. Payne noted that although updated VDOT traffic counts in the corridor have been completed, analysis and forecasting will not be finished until as late as mid-November, and that Federal funding has been designated for both phases of the project. Mr. Payne did note that this will require compliance with the National Environmental Protection Act including definition of need and an environmental impact analysis and that a public hearing will be required and that this requirement alone would delay construction by one year to eighteen months. Mr. Payne explained that staff is attempting to find out how much Federal funding has been designated for each section and whether or not the funds can be concentrated onto one phase so that the others could move forward with only State and local funding and that staff understands that as much as 80% of the project funding could be Federal, which raises the question of what is the status of the previously allocated State funding. Mr. Payne also noted that there are several major design issues in Phase 1a that must be resolved, i.e., the railroad bridge/tunnel; drainage, coordination with CSO activities, water utilities

replacement, and electric utilities relocation or burial. Mr. Payne went on to say that VDOT is trying to determine a reasonable schedule from this point, but the present best guess is that it will be approximately three years before the project can be advertised for construction which would include time to complete the environmental review process and right-of-way acquisition. Mr. Payne stated that in order for the City to keep this project moving forward, it is recommended that a project manager be hired immediately. City Council reached consensus to allow the City Manager to hire a project manager and to fund the cost either as a capital expense from the Capital Improvements Plan or from the General Fund Reserve for Contingencies.

//During roll call, and in response to Council Member Seiffert's question, City Manager Kimball Payne explained that Tim Kushner refused to provide him with copies of the e-mails that he sent to Victor Dover, and that Mr. Dover stated that he responded to all requests from Sandor Development Company regarding the Midtown Plan. Council Member Gillette asked staff to determine if the medium strip in the curve on Link Road near Oakwood Country Club could be reinforced, and inquired regarding interest in enacting an ordinance to require dog owners to clean up their pets waste. Council Member Seiffert stated that he has already asked the City Attorney to inquire regarding "site specific" ordinances requiring dog owners to clean up after their pets. Council Member Helgeson expressed concern regarding the sudden change in the speed limit in the vicinity of the intersection of Fenwick Drive and Fort Avenue. In response to Council Member Dodson's question, City Manager Kimball Payne stated that he asked the Planning staff to initiate the process to allow the City to accept cash proffers as part of conditional rezoning petitions. Vice Mayor Foster commented regarding the afternoon tour of Lynchburg Grows and informed that they are applying for a grant and would like City Council to adopt a resolution showing support of the concept of urban farming. Mayor Hutcherson reminded everyone regarding the Citizens Academy on Thursday night.

// On motion of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commission, the acquisition and disposition of publicly held real property because discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City and for consultation with legal counsel or briefing by staff concerning potential litigation pursuant to Section 2.2-3711(A)(1), (3) and (7), respectively, of the Code of Virginia, 1950, as amended:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// The meeting was re-opened to the public.

// Vice Mayor Foster made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The Motion was seconded by Council Member Seiffert, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	7
Noes:	0

// In the matter of Appointments, and on nomination of Council Member Johnson, Council by the following recorded vote appointed Carol Spencer Read to fill an unexpired term on the Lynchburg School Board ending June 30, 2006:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	7
Noes:	0

On nomination of Council Member Johnson, Council by the following recorded vote re-appointed Edward M. Barksdale, Sr., to serve on the Lynchburg Redevelopment and Housing Authority Board for a term to expire September 30, 2009:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	7
Noes:	0

On nomination of Council Member Johnson, Council by the following recorded vote re-appointed Dan C. Messerschmidt and Judy E. Smith to serve on the Lynchburg Business Development Centre Board for terms to expire September 30, 2008:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	7
Noes:	0

On nomination of Council Member Johnson, Council by the following recorded vote appointed Todd Cohen, Ward A. Dean, Jr. and Terry W. Thompson to serve on the Lynchburg Business Development Centre Board for terms to expire September 30, 2008:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	7
Noes:	0

// The meeting was adjourned at 7:20 p.m.

Clerk of Council